

Slave Law and Labor Activities during the Spanish Colonial Period: A Study of the South American Region of Río de la Plata

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SLAVE LAW AND LABOR ACTIVITIES DURING THE SPANISH COLONIAL PERIOD: A STUDY OF THE SOUTH AMERICAN REGION OF RÍO DE LA PLATA

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I. Introduction

“Slavery has [had] a long presence in Western civilizations.”¹ People from Africa were subject to slavery almost throughout all the Americas, with different levels of intensity. In the Hispanic-American colonies,² during the Fifteenth to Nineteenth Centuries, 12,000,000 Africans were disembarked and used as slaves. If, for every African that arrived to destiny in Hispanic-America, five perished by starvation, diarrhea, dehydration, suicide or punishment, the commerce of slaves caused Africa to lose more than 60,000,000 individuals.³ One of the regions in Hispanic-America that utilized slave labor was Río de la Plata,⁴ in the southern portion of South America. This article focuses on that region and develops a catalog reflecting the slave law applicable to the Hispanic-American colonies and the labor activities that Black slaves undertook in the region during the colonial period.⁵

The slave law and the labor activities of Black slaves in the Americas have been studied from different angles and have covered nearly all of the Americas.⁶ While Argentine historians

¹ Roy L. Brooks, *Ancient Slavery Versus American Slavery: A Distinction with a Difference*, 33 U. MEM. L. REV. 265, 265 (2003).

² For the purposes of this article, Hispanic-American colonies are understood as the possessions and settlements of the Crown of Castile in the Americas.

³ Miriam Victoria Gomes, *La Presencia Negrafricana en la Argentina Pasado y Permanencia*, 9 BOLETÍN DIGITAL DE LA BIBLIOTECA DEL CONGRESO DE LA NACIÓN, 2 (2002), available at <http://bcnbib.gov.ar/bibliopress/bibliopress9-2.htm>.

⁴ The region of Río de la Plata is currently shared between Argentina and Uruguay. Formerly, during the period under analysis, some areas of Bolivia and Paraguay were considered also part of that region.

⁵ The colonial period in the Hispanic-American colonies extends, for each country, from the year 1492 until their independence from Spain. In Argentina, independence was declared on July 9, 1816. In Uruguay, independence was declared on August 25, 1825.

⁶ Other than the materials used for this article, the following provides a useful description of the slave law and the labor activities of Black slaves in the North American region: Hans W. Baade, *The Law of Slavery in Spanish Louisiana*, in LOUISIANA'S LEGAL HERITAGE, at 43 (Edward F. Haas & Robert R. Macdonald eds., 1983); Francis P. Burns, *The Black Code, A Brief History of the Origin, Statutory Regulation and Judicial Sanction of Slavery in Louisiana*, 5 LOY. L.J. 15 (1924); PAUL FINKELMAN, *SLAVERY AND THE FOUNDERS: RACE AND LIBERTY IN THE AGE OF JEFFERSON* (1996); Ariela J. Gross, “*Like Master, Like Man*”: *Constructing Whiteness in the Commercial Law of Slavery, 1800-1861*, 18 CARDOZO L. REV. 263 (1996); Ariela Gross, *Pandora's Box: Slave Character on Trail in the Antebellum Deep South*, 7 YALE J.L. & HUMAN. 267 (1995); Thomas N. Ingersoll, *Slave Codes and Judicial Practice in New Orleans, 1718-1807*, 13 LAW & HIST. REV. 23 (1995) (including a very complete bibliography on the legal condition of slaves in early Louisiana); Paul A. Kunkel, *Modifications in Louisiana Negro Legal Status under Louisiana Constitutions, 1812-1957*, 44 J. NEGRO HIST. 1, 1-25 (Jan. 1959); Michael P. Mills, *Slave Law in Mississippi from 1817-1861: Constitutions, Codes and Cases*, 71 MISS. L.J. 153 (2001); THOMAS D. MORRIS, *SOUTHERN SLAVERY AND THE LAW, 1619-1860* (1999); Leonard Oppenheim, *The Law of Slaves – A Comparative Study of the Roman and Louisiana Systems*, 14 TUL. L. REV. 384 (1939);

have undertaken some important studies in this area of legal history,⁷ North American legal historians have not studied the region of Río de la Plata. Latin American legal history is a field of academic pursuit that is quickly developing in the United States.⁸ This article, therefore, provides both a contribution for North American legal historians and an introduction for English readers to many documents written in Spanish.⁹

This article: (i) tracks the backgrounds of slavery inside the Iberian Peninsula; (ii) describes the entry of slaves in Río de la Plata; (iii) provides references to the slave law applicable in the Hispanic-American colonies; (iv) provides a classification of the different labor activities of slaves in Río de la Plata; and (v) develops an approach to some of the contingencies that Black people faced in Río de la Plata and that affected their demographic growth. The discussion of all these topics, when contrasted with the way they developed in the English, French, or Dutch colonies, reflects that in Río de la Plata slaves were treated in a benign way.

Vernon Valentine Palmer, *The Origins and Authors of the Code Noir*, 56 LA. L. REV. 363 (1996); Judith Kelleher Schafer, "Details are of a most Revolting Character" *Cruelty to Slaves as seen in Appeals to the Supreme Court of Louisiana*, 68 CHI.-KENT L. REV. 1283 (1993); ROGER W. SHUGG, ORIGINS OF CLASS STRUGGLE IN LOUISIANA – A SOCIAL HISTORY OF WHITE FARMERS AND LABORERS DURING SLAVERY AND AFTER 1840-1875, 76-120 (1939); John Edmund Stealey III, *The Responsibilities and Liabilities of the Bailee of Slave Labor in Virginia*, 12 AM. J. LEGAL HIST. 336 (1968); MARK V. TUSHNET, SLAVE LAW IN THE AMERICAN SOUTH: STATE V. MANN IN HISTORY AND LITERATURE (2003); MARK V. TUSHNET, THE AMERICAN LAW OF SLAVERY, 1810-1860 (1981); Frederick Wertheim, *Slavery and the Fellow Servant Rule: An Antebellum Dilemma*, 61 N.Y.U. L. REV. 1112 (1986); Minter Wood, *Life in New Orleans in the Spanish Period*, 22 LA. HIST. Q. 642 (1939).

For the Americas in general, see FRANK TANNENBAUM, SLAVE AND CITIZEN: THE CLASSIC COMPARATIVE STUDY OF RACE RELATIONS IN THE AMERICAS (1992)

For Central and South America, see Magnus Morner, *The History of Race Relations in Latin America: Some Comments on the State of Research*, 1 LATIN AM. RES. REV. 17, 17-44 (Summer 1966); Mary Wilhelmine Williams, *The Treatment of Negro Slaves in the Brazilian Empire: A Comparison with the United States of America*, 15 J. NEGRO HIST. 315, 315-336 (July 1930); Wilbur Zelinsky, *The Historical Geography of the Negro Population in Latin America*, 34 J. NEGRO HIST. 153, 153-221 (Apr. 1949).

⁷ Abelardo Levaggi, *La Condición Jurídica del Esclavo en la Época Hispánica*, 1 REVISTA DE HISTORIA DEL DERECHO 83, 83 (1973).

⁸ M.C. Mirow, *Latin American Legal History: Some Essential Spanish Terms*, 12 LA RAZA L.J. 43, 43 (2001). The words of Mirow are not limited to Argentina, but are applicable to all Latin-American legal history developments.

⁹ More than 50 years ago, Irene Diggs published an article regarding the life of Black slaves in Río de la Plata. The work of Ms. Diggs, however, is not exclusively the approach of a Legal Historian: it focused on social and cultural aspects and ignores part of the relevant legal framework. See Irene Diggs, *The Negro in the Viceroyalty of the Río de la Plata*, 36 J. NEGRO HIST. 281, 281-301 (1951). See also Robert J. Cottrol, *Beyond Invisibility: Afro-Argentines in Their Nation's Culture and Memory*, 42 LATIN AM. RES. REV. 139, 139-156 (2007).

II. Slavery in the Iberian Peninsula¹⁰

Slavery has coexisted with the human experience since the beginning of recorded history,¹¹ on every continent and among all races.¹² Every major religion has sanctioned it, and every civilization has been built upon it.¹³ A slave is one who is seen, considered, or regarded as the property of another and, consequently, can be given to a third party by means of exchange or sale.¹⁴ Slavery has been defined as the “robber of liberty, fraudulently taking away a person’s ability to make choices in regard to his or her physical, emotional and spiritual interests.”¹⁵

The most significant elements of slavery are: (i) the apparent authority of the master over the slave; (ii) the intent of the master to overcome the will of the slave; and (iii) the personal aggrandizement of the master.¹⁶ Traditionally, the most abundant sources of slavery were those individuals captured as prisoners in war, kidnapped, imprisoned for crimes or offenses, seized for debt, or born to a slave mother, and those voluntarily selling themselves or their children.¹⁷

During the Middle and Modern Ages, slavery was common in Europe and in the ultramarine powers’ main colonies. In Spain, complete slave law dispositions were elaborated.¹⁸ Spanish slave law was included in the *Siete Partidas*,¹⁹ a thirteenth-century Castilian codification, elaborated at the time of Alfonso X *el Sabio* (the Wise), and based in large part on Roman law.²⁰ Due to the influence of the Roman Catholic religion,²¹ the slavery that became a part of the *Siete Partidas*,²² although cruel, included elementary mercy principles.²³

¹⁰ The reference to the Iberian Peninsula is necessary, due to the mutations that the boundaries of Spain suffered during the studied period.

¹¹ William M. Wiecek, *The Origins of the Law of Slavery in the British North America*, 17 CARDOZO L. REV. 1711, 1713 (1996).

¹² *Id.*

¹³ *Id.*

¹⁴ María Susana Cipoletti, *Lacrimabili Statu: Esclavos Indígenas en el Noroeste Amazónico (Siglos XVII-XIX)*, LV-205 REVISTA DE INDIAS 551, 552 (1995).

¹⁵ Lisa Haberman, *The Seduction of Power: An Analogy of Incest and Antebellum Slavery*, 13 HASTINGS WOMEN'S L.J. 307, 307 (2002).

¹⁶ Lisa Haberman provides more elements. *See id.*

¹⁷ ROBERT B. SHAW, A LEGAL HISTORY OF SLAVERY IN THE UNITED STATES 39 (1991).

¹⁸ Jesús María García Añoveros, *Carlos V y la Abolición de la Esclavitud de los Indios. Causas, Evolución y Circunstancias*, LX-218 REVISTA DE INDIAS 57, 57 (2000).

¹⁹ The United States Supreme Court cited the *Siete Partidas* in 12 cases. In State Courts of former Hispanic-American colonies (i.e., California, Louisiana, and Texas), the *Siete Partidas* are useful in cases of marital property, natural resources, and waterfront rights. *See* Adam J. Kosto, Book Review, 44 AM. J. LEGAL HIST. 493, 493 (2000).

²⁰ Hans W. Baade, *The Bifurcated Romanist Tradition of Slavery in Louisiana*, 70 TUL. L. REV. 1481, 1493 (1996).

In the Iberian Peninsula, slavery lost its hardness throughout the centuries. Slowly, throughout the Middle Ages, Christian influences transformed the slave into a free man.²⁴ According to the text of Book IV, Title XXI, Law I of the *Siete Partidas*, it was possible to find three sources for slavery: the first, those taken captive in war who are enemies of the faith; the second, those born of female slaves; and the third, when a person is free and allows himself to be sold.²⁵

During the Middle Ages, it was also possible to find servants, who were different from slaves. Servants represented a large portion of the lower social classes.²⁶ There were mainly two different kinds of servants: (i) personal servants and (ii) servants of the *gleba*²⁷ or subject to the land. The first was the most common during the beginning of the Middle Ages. They were similar to the slaves of the Ancient Period. Some were dedicated to the personal service of a *señor*²⁸ or master, and others attended to agricultural activities without being bound permanently to the land (i.e., rustic servants). With time this first kind of servants disappeared and was transformed into servants of the *gleba*.²⁹ Servants of the *gleba* predominated during the latter part of the Middle Ages. They were those who had been rendering personal servitude or those who had given up their freedom to obtain the security and protection of the master. In exchange,

²¹ The Catholic Church regarded the act of freeing slaves as an act of Christian virtue. That attitude led to the freeing of thousands of slaves. See Brooks, *supra* note 1, at 267.

²² The dispositions on slave law are included in Book IV, Title XXI, on Servants (*de los siervos*), Laws I –VIII and in Book IV, Title XXII of Freedom (*de la libertad*), Laws I – XI of the *Siete Partidas*. See 4 LAS SIETE PARTIDAS DEL SABIO REY DON ALFONSO EL NONO, NUEVAMENTE GLOSADAS POR EL LICENCIADO GREGORIO LÓPEZ DEL CONSEJO REAL DE INDIAS DE SU Magestad 55-59 (1555). The *Siete Partidas* are also available at: <http://fama2.us.es/fde/lasSietePartidasEd1807T1.pdf>

²³ María Isabel Seoane, *El Patronato de los Libertos en Buenos Aires (1813-1853)*, in 6 LIBRO DE PONENCIAS DEL VI CONGRESO INTERNACIONAL DE HISTORIA DE AMÉRICA 403, 403 (ADH ed. 1982). See also 1 LAS SIETE PARTIDAS, LXII (Samuel Parsons Scott trans., 1931).

²⁴ JOSÉ LUÍS MASINI, RÉGIMEN JURÍDICO DE LA ESCLAVITUD NEGRA EN HISPANOAMÉRICA HASTA 1810-12 (GRAFICOS D'ACCURZIO 1958).

²⁵ 4 LAS SIETE PARTIDAS 977 (Robert I. Burns ed., Samuel Parsons Scott trans., S.J. 2001). Spanish Text (throughout the article, and in order to facilitate reading, the old Spanish idioms have been ignored, and the current Spanish adopted): “Son tres maneras de siervos. La primera es, de los cautivos en tiempo de guerra, siendo enemigos de la fe. La segunda es, de los que nacen de las siervas. La tercera es, cuando alguno es libre y se deja vender.” See 4 LAS SIETE PARTIDAS DEL SABIO REY DON ALFONSO EL NONO, NUEVAMENTE GLOSADAS POR EL LICENCIADO GREGORIO LÓPEZ DEL CONSEJO REAL DE INDIAS DE SU Magestad 54 (1555).

²⁶ See MASINI, *supra* note 24, at 12.

²⁷ “Gleba: Tierra, especialmente la cultivada.” See *Gleba*, Real Academia Española (2006), available at <http://www.rae.es>. Translation by the author of this article: “Land, especially that subject to cultivation.”

²⁸ In this article *Señor* will be understood as the equivalent of the English term *Master*.

²⁹ See MASINI, *supra* note 24, at 12.

these servants were subject to a mandatory *colonato*³⁰ and therefore bound to the land they cultivated without the possibility of leaving it or being separated from it. Consistent with Catholic principles, the servant of the *gleba* was no longer considered as a *res*³¹ or “object like” slave. The masters customarily granted restricted manumission to servants, the former owners generally retaining their sponsorship and the servants remaining obligated in certain ways.³²

In the Iberian Peninsula the captives were used for commerce, industry, or domestic service. They generally performed hard work, although some were granted special consideration because they possessed certain artistic aptitudes. For example, during the Fourteenth Century, Jordi De Déu³³ was a slave of a famous sculptor, Jaime Cascaylls, and turned to be also a famous sculptor that served in his studio.³⁴ According to the general ancient belief that manual labor was a discreditable activity,³⁵ Spaniards rejected manual works and considered them only tolerable for submissive populations.³⁶

III. Black Slaves in Río de la Plata

By the end of the Fifteenth Century, slavery was an institution with deep roots in the Iberian Peninsula. However, just after the discovery of America, slavery declined in the Iberian Peninsula. In Seville, for example, there were not more than 250 slaves in 1496.³⁷ As Spaniards settled across the Atlantic Ocean, however, slavery was revived. Although primarily an interest of individual colonizers, the Crown also recognized the economic benefits of slavery.³⁸ Native

³⁰ “System of agricultural production where land is exchanged for agricultural labor on a large estate.” See *supra* note 8, at 56.

³¹ “*Res*: In the civil law, a thing, an object.” See BLACK’S LAW DICTIONARY 1304 (6th ed. 1990).

³² See MASINI, *supra* note 24, at 13.

³³ He was a well-known sculptor of the Fourteenth and Fifteenth Centuries. He was born in Messina in a Greek family. In Barcelona he was bought by a Royal sculptor called Jaime Cascaylls from whom he learned the art. For a biography of Jordi de Déu in Spanish, see *Siglos XIV y XV: Artistas Esclavos del Gótico Catalán* (2007), available at <http://www.cedt.org/goticat.htm>.

³⁴ José María Madurell Marimon, *Los Seguros de Vida de Esclavos en Barcelona (1453-1523) - Documentos para su Estudio*, 25 ANUARIO DE HISTORIA DEL DERECHO ESPAÑOL 123, 141 (1955).

³⁵ LUIS A. DESPONTIN, *EL DERECHO DEL TRABAJO* 165 (EDITORIAL BIBLIOGRAFICA ARG. 1947).

³⁶ Ricardo Rodríguez Molas, *El negro en el Río de la Plata*, 9 BOLETÍN DIGITAL DE LA BIBLIOTECA DEL CONGRESO DE LA NACIÓN (2002), available at <http://www.bcnbib.gov.ar/bibliopress/bibliopress9a.htm>.

³⁷ Esteban Mira Caballos, *Las Licencias de Esclavos Negros a Hispanoamérica (1544-1550)*, vol. LIV, 201 REVISTA DE INDIAS 273, 273 (1994).

³⁸ *Id.*

Americans³⁹ and Blacks from Africa were subjected to slavery, because colonizers found in the legal cultures and *mores* of the Iberian urban slavery⁴⁰ a familiar slave system.

Initially, the Native Americans were enslaved and subjected to the Castilian Crown.⁴¹ According to the texts of Book VI, Title II, Laws I – XVI of the Compilation of Indian Laws (*Recopilación de Leyes de Indias*) of 1680,⁴² they were replaced with Blacks from Africa, who maintained the colonial economy at very high cost to their own lives.⁴³ African slaves were either born into slavery or brought to the region as a consequence of the *trata*.⁴⁴

The *trata* was the regulated legal commerce of slaves in the Hispanic-American colonies.⁴⁵ The characteristics of the *trata* changed with time and can be divided into three periods: licenses (*licencias*), contracts (*asientos*), and free commerce (*libertad de tráfico*).⁴⁶

The *licencias* to engage in the commerce of slaves were provided by the Spanish Crown as early as 1493 and were a means to fulfill the colonies' need for slaves.⁴⁷ The licenses were granted mainly to royal officials, clergymen, and members of the Spanish conquering expeditions. In addition, merchants and businessmen also received licenses from the Spanish Crown.⁴⁸ The *licencia* was an agreement between the Spanish Crown and private businessmen;

³⁹ “Also called American Indian, Amerindian, Amerind, or Indian member of any of the aboriginal peoples of the Western Hemisphere, with the exception of the Eskimo, or Inuit, and Aleuts.” See *Native American*, in *ENCYCLOPÆDIA BRITANNICA* (2007), <http://www.britannica.com/eb/article-9117303>. For purposes of this article, it will be understood as the aboriginal peoples that occupied the Hispanic-American colonies.

⁴⁰ Alejandro de la Fuente, *Slavery and the Law: A Reply*, 22 *LAW & HIST. REV.* 383, 384-85 (2004).

⁴¹ Paul Finkelman, *Thomas R.R. Cobb and the Law of Negro Slavery*, 5 *ROGER WILLIAMS U. L. REV.* 75, 78 (1999).

⁴² 2 *RECOPILACIÓN DE LEYES DE LOS REYNOS DE LAS INDIAS* 194 (EDICIONES CULTURA HISPANICA 1973) (1681). Previously, a Royal Provision signed in Valladolid and dated May 21, 1542 prohibited the slavery of Native Americans. See Viviana Kluger, *¿Todo Tiempo Pasado fue Mejor? La Condición Jurídica del Esclavo a través de la Mirada de los Fiscales de la Audiencia de Buenos Aires (1785- 1812)*, 38 *REV. JURÍDICA U. INTER. P.R.* 93, 95-96 (2003).

⁴³ See Molas, *supra* note 36.

⁴⁴ See MASINI, *supra* note 24, at 14.

⁴⁵ DIEGO LUÍS MOLINARI, *LA TRATA DE NEGROS. DATOS PARA SU ESTUDIO EN EL RÍO DE LA PLATA* 15 (1944).

⁴⁶ Molinari, *supra* note 45, at 51.

⁴⁷ *Id.* at 15.

⁴⁸ M.C. MIROW, *LATIN AMERICAN LAW - A HISTORY OF PRIVATE LAW AND INSTITUTIONS IN SPANISH AMERICA* 78 (2004)

however, these businessmen were not required to continuously provide slaves or to assure their safe arrival to the Hispanic-American colonies.⁴⁹

With the *asientos*, the Spanish Crown authorized the commerce of slaves to merchants who frequently were non-Spaniards. With the payment of a specific fee in advance, the slave traders were able to sell a predetermined number of Black slaves within the Hispanic-American colonies and for a predetermined amount of time.⁵⁰ Starting in 1595, due to the unification of the Spanish and Portuguese Crowns during the reign of Philip II, *asientos* were granted directly to Portuguese slave traders.⁵¹ The *asientos* were the main means of *trata* until 1789.⁵²

The *libertad de tráfico* of slaves came with the collapse of the monopolistic trade system that the Spanish Crown had implemented in the Americas. The Crown opened several new ports to the slave trade, and in 1765 a number of rules restricting the commerce of slaves were relaxed.⁵³ For example, in 1776, the creation of the Viceroyalty of Río de la Plata⁵⁴ authorized the *trata* of slaves in the region. Before that, slaves had to be acquired in Lima like all products coming from the Iberian Peninsula. Additionally, the Regulation for Free Commerce (*Reglamento de Comercio Libre*) of October 12th, 1778 allowed for an increase in the commerce of slaves in Río de la Plata.⁵⁵ In 1789, the free slave trade was permitted in some Hispanic-American colonies (e.g., Caracas and Cuba).⁵⁶ After 1791, one could engage in the commerce of slaves in Río de la Plata without a permit.⁵⁷ These relaxed restrictions were codified in the first chapter of a *Real Cédula*⁵⁸ dated November 24th, 1791, which stated:

Any person subject to my domains, living or resident in Spain or in America, will be enabled to enter into any port outside of America with his own vessel or a

⁴⁹ Irene Diggs, *The Negro in the Viceroyalty of the Río de la Plata*, 36 J. NEGRO HIST. 281,282 (July, 1951).

⁵⁰ *Id.*

⁵¹ *Id.* at 78.

⁵² *Id.* at 282.

⁵³ See Diggs, *supra* note 48, at 79.

⁵⁴ “The final of the four viceroyalties that Spain created during its colonization of Central and South America. Including the territory now comprising Argentina, Uruguay, Paraguay, and Bolivia, the new viceroyalty controlled an area previously under the administration of the Viceroyalty of Peru.” See *Río de la Plata, Viceroyalty*, in *ENCYCLOPÆDIA BRITANNICA* (2007), available at <http://www.britannica.com/eb/article-9063741>.

⁵⁵ HEBE CLEMENTI, *LA ABOLICIÓN DE LA ESCLAVITUD EN AMÉRICA LATINA* 53 (1974).

⁵⁶ See Diggs, *supra* note 48, at 79.

⁵⁷ *Id.* at 282.

⁵⁸ A *Real Cédula* was a legal document emanated from a royal office, used to notify diverse resolutions. See Mirow, *supra* note 8, at 52.

rented one, in search of Blacks, with the intent to sell them or introduce them in the Viceroyalties of Santa Fe and Buenos Aires, Captaincies Generals of Caracas, and Islands of Santo Domingo, Cuba and Puerto Rico.⁵⁹

Another way of performing the *trata* of slaves was the *coartación*.⁶⁰ The *coartación* was introduced in Cuba, perhaps on the recommendation of the Spanish Governor in Louisiana, Alejandro O'Reilly, whose reports of 1763 and 1764 on the colonies of Louisiana and Puerto Rico helped guide extensive reforms in the Spanish legal system.⁶¹ The *coartación* was a sort of manumission in Hispanic-America. But after 1768 the *coartación* took a different meaning: it became the procedure for purchasing the freedom of a slave, by means of payment to the master, perhaps even in installments.⁶²

The slaves were introduced to the Hispanic-American colonies by means of *armazones*. In an *armazón*, several parties shared the commercial interest over a group of slaves. The *armazón* generally adopted the form of a commercial partnership, in which each partner's profit in the partnership was proportional to his invested capital. Capital could include, amongst others, the ship and its crew, the acquisition of licenses, expenses during the voyage, and diverse taxes.⁶³

Most slaves in Hispanic-America were captured and enslaved in Western Africa (e.g., Cape Verde Islands). Though slaves from a particular nation or geographic area in Africa were

⁵⁹ Translation to English by the author of this article. Spanish text: "Todo vasallo mío, avecindado o residente en España o Indias, podrá pasar en embarcación propia o fletada a su cuenta a cualquier Puerto extranjero de América en busca de negros, con el fin de compararlos e introducirlos en los Virreynatos de Santa Fe y Buenos Aires, Capitanía General de Caracas, e Islas de Santo Domingo, Cuba y Puerto Rico." See ANTONIO XAVIER PÉREZ Y LÓPEZ, 21 TEATRO DE LA LEGISLACIÓN UNIVERSAL DE ESPAÑA É INDIAS, POR ORDEN CRONOLÓGICO DE SUS CUERPOS Y DECISIONES NO RECOPILADAS: Y ALFABÉTICO DE SUS TÍTULOS Y PRINCIPALES MATERIAS 113 (1798).

⁶⁰ "Ability of a slave to purchase freedom by him or herself or through another." Mirow, *supra* note 8, at 54.

⁶¹ Thomas N. Ingersoll, *Slave Codes and Judicial Practice in New Orleans, 1718-1807*, 13 LAW & HIST. REV. 23, 43 (1995) (citing TORRES-RAMÍREZ, ALEJANDRO O'REILLY EN LAS INDIAS, 18-88 (Sevilla 1969)).

⁶² Manuel Lucena Salmoral, *El Derecho de Coartación del Esclavo en la América Española*, LIX-216 REVISTA DE INDIAS 357, 357 (1999).

⁶³ Alejandro de la Fuente García, *El Mercado Esclavista Habanero, 1580-1699: Las Armazones de Esclavos*, L-189 REVISTA DE INDIAS 371, 380 (1990).

often sent to the same region in Hispanic-America,⁶⁴ in Río de la Plata the slaves came from several Western African nations, predominately Guinea, Angola, and Madagascar.⁶⁵ Nevertheless, slaves in Hispanic-America generally came from the western area of Africa, between Senegal and Congo.⁶⁶

Buenos Aires and Montevideo became the most important ports of the South Atlantic region. These cities supplied slaves to all the interior regions of South America by functioning as transfer points for slaves destined for Valparaiso and Río de Janeiro.⁶⁷ Other ships transported slaves to Chile, the Alto Peru, and other minor cities of the Viceroyalty of Río de la Plata (e.g., Mendoza, San Juan, Córdoba and Tucumán).⁶⁸ Although slaves were sent to other regions, “a large number were retained [in Río de la Plata] to meet the local labor demands.”⁶⁹

Hispanic-Americans coined disparaging terms to denigrate slaves who lived in the colonies. Many of these terms varied by region and were unknown, or had a different meaning, to residents of other colonies.⁷⁰ In Río de la Plata, terms referring to Black slaves were especially violent and denoted a lack of respect for human life. For example, (i) Black’s Head (*cabeza de negro*) or Head of Slave (*cabeza de esclavo*) described any Black slave, male or female, regardless of their age or condition; (ii) Indian’s Piece (*pieza de Indias*) described men or women who were between fifteen and thirty years old, of robust complexion, without defects and who had all of their teeth; (iii) Quarter (*un cuarto*), Half Piece (*media pieza*) or Four Fifths of a Piece (*cuatro quintos de pieza*) described Black slaves who contained “defects” in age, stature, and/or health; (iv) Three Pieces of Indians (*tres piezas de indias*) constituted one ton of Black individuals; (v) Black Muzzle (*negro bozal*) described a slave who had recently arrived from Africa; (vi) *Ladino* referred to a slave who had been in America for at least a year; (vii) Spear Black (*negro de asta*) described a *cabeza de negro* that reached the height of the spear; (viii)

⁶⁴ Slaves from Northern and Southern Guinea were sent mainly to the Caribbean and Central America; the Yoruba and the Ewe (from Nigeria and Togo) to Brazil; and the slaves from Angola and Congo (of the Bantu ethnic family and language) were sent primarily to Chile, Peru, Uruguay and Argentina. Gomes, *supra* note 3.

⁶⁵ Marcela Aspell de Yanzi Ferreira, *La Esclavitud en Buenos Aires 1810-1853*, 17 REVISTA DE HISTORIA DEL DERECHO 9, 12 (1989).

⁶⁶ See Molinari, *supra* note 45, at 44.

⁶⁷ See Gomes, *supra* note 3.

⁶⁸ Ricardo Zorraquin Becu, *El Trabajo en el Período Hispánico*, 19 REVISTA DE HISTORIA DEL DERECHO 107, 160 (1968).

⁶⁹ Lyman L. Johnson, *Manumission in Colonial Buenos Aires, 1776-1810*, 59 HISP. AM. HIST. REV. 258, 260 (1979).

⁷⁰ See Shaw, *supra* note 17, at 55.

Muleque described a *negro bozal* between seven and ten years old; and (ix) *Mulecon* described a *negro bozal* between ten and eighteen years old.⁷¹

The number of Black slaves steadily increased in Río de la Plata. Blacks are hardly mentioned in the existing documentation of the Sixteenth Century. During the years 1544 and 1550, only three Black slaves were sent to the region.⁷² By 1726, there were 94 Blacks in the region;⁷³ in 1733 there were 310; in 1744 they totaled 1,150; in 1778 they totaled 3,837; and finally, in 1822 there were a total of 13,685 Blacks.⁷⁴

Markets for slaves were established in the region, which introduced a considerable nucleus of Black races that generally lived subject to a slavery regime. As time passed, however, many of those slaves achieved their manumission. Thus, many cities contained a number of free Blacks whose legal situation yet had to be defined by the local authorities.⁷⁵

IV. Slave Law in Hispanic-America

In contrast to English slave law, the slave law in Hispanic-America was found in systematic texts⁷⁶ and was mainly regulated by the provisions included in the *Indiano*⁷⁷ laws. Regarding slavery, the main provisions were included in the following *Indiano* laws: (i) the *Recopilación de Leyes de Indias* of 1680, (ii) the Black Codes (*Códigos Negros*), and (iii) the Instructions and Regulations (*Reglamentos*).

The *Recopilación de Leyes de Indias* of 1680 found an important precedent in the previous Castilian law. The *Siete Partidas* had meticulously regulated all matters relative to medieval servants in Europe. Those dispositions, like many other medieval laws, were reborn in the *Recopilación de Leyes de Indias* of 1680.⁷⁸ The *Recopilación de Leyes de Indias* of 1680

⁷¹ See Molinari, *supra* note 45, at 47.

⁷² According to the figures provided by Caballos, *supra* note 37, at 282.

⁷³ The main city of the Viceroyalty of Río de la Plata was Buenos Aires. This city was founded twice by Spaniard expeditions: (i) in 1536, by Pedro de Mendoza; and (ii) in 1580, by Juan de Garay. See *Buenos Aires*, in *ENCYCLOPÆDIA BRITANNICA* (2007), available at <http://www.britannica.com/eb/article-9727>.

⁷⁴ According to the figures provided by CLEMENTI, *supra* note 55, at 53.

⁷⁵ Jose Maria Ots Capdequi *Manual de Historia del Derecho Espanol en las Indias y del Derecho propiamente indiano* 1 The Americas 242-43 (Oct., 1944).

⁷⁶ Jonathan A. Bush, *Free to Enslave: The Foundations of Colonial American Slave Law*, 5 *YALE J.L. & HUMAN.* 417, 469 (1993).

⁷⁷ “Derecho Indiano: Laws applicable to the Indies, or Spanish Colonies.” See Mirow, *supra* note 8, at 58.

⁷⁸ See MASINI, *supra* note 24, at 4.

dedicated both an exclusive Title and a set of eleven Laws to the rights of slaves.⁷⁹ In addition, the *Recopilación* expressly provided that whenever the relevant legal area was not contained within it or within another royal decree, the law in force was that of Castilian law according to the *Leyes de Toro*.⁸⁰ Since these last laws made a mandatory reference to the *Siete Partidas* in the event of lacunae or gap in the legislation, the ultimate source of slave law was the *Siete Partidas*.⁸¹ The text of Book II, Title I, Law II of the *Recopilación de Leyes de Indias* of 1680 stated:

That the laws of Castile are applied when the laws of the Indies are silent. We order and demand that the laws of Castile, according to the Laws of Toro, should be applied to all cases, businesses and claims that are not decided nor regulated in the laws of this Recompilation, Legal Documents, Provisions or Collections of Laws, that aren't eliminated in the Indies and were emanated under our orders. The laws of Castile will be applied not only regarding the substance, resolution and decision of the cases, businesses and claims, but also regarding the way and order to ground the decision.⁸²

⁷⁹ The rights of slaves are covered in Book VIII, Title XVIII on the rights of slaves (*de los derechos de esclavos*), Laws I – X of the *Recopilación*. See RECOPIACIÓN DE LEYES DE LOS REYNOS DE LAS INDIAS 88 (EDICIONES CULTURA HISPANICA 1973) (1681). The *Recopilación*, throughout the different books, also included various other provisions regarding slavery.

⁸⁰ ALAN WATSON, SLAVE LAW IN THE AMERICAS 48 (1989).

⁸¹ The *Leyes de Toro* were a total of 83 laws, enacted in the year 1505, in the City of Toro. The main drafter was Juan López de Palacios Rubios. The *Leyes de Toro* ratified the order of priority of the laws that had been established in 1348 (*i.e.*, 1st *Ordenamiento de Alcalá de Henares*, 2nd *Fueros*, 3rd *Siete Partidas*). See ABELARDO LEVAGGI, 1 MANUAL DE HISTORIA DEL DERECHO ARGENTINO 145 (2001).

⁸² Translation to English by the author of this article. Book II, Title I of the Laws, Provisions, Schedules and Royal Ordinances (*de las Leyes, Provisiones, Cédulas y Ordenanzas Reales*), Law II of the *Recopilación*. Spanish text:

Que se guarden las leyes de Castilla en lo que no estuviere decidido por las de las Indias. Ordenamos y mandamos, que en todos los casos, negocios y pleitos en que no estuviere decidido, ni declarado lo que se debe proveer por las leyes de esta Recopilación, o por Cédulas, Provisiones, o Ordenanzas, y no revocadas para las Indias, y las que por nuestra orden se despacharen, se guarden las leyes de nuestro Reino de Castilla, conforme a la de Toro, así en cuanto a la sustancia, resolución y decisión de los casos, negocios y pelitos, como a la forma y orden de substanciar.

See 1 RECOPIACIÓN DE LEYES DE LOS REYNOS DE LAS INDIAS 126 (1681).

Another important piece of legislation was the *Códigos Negros*, which had a strong presence in Hispanic-America. They found inspiration in the *Code Noir* that Louis XIV enacted for France in 1685 to regulate the activities of Black slaves. The first Hispanic *Código Negro* dates back to 1768 and applied to the slaves in Santo Domingo. Subsequently, in 1769, Alejandro O'Reilly, the Governor of Louisiana, gave support to the *Code Noir* that had been in force in the region during the French possession and applied it to the slaves in Spanish Louisiana. The third *Código Negro* was the *Carolino Code*. Although it was completed in 1784 and intended for use in the Hispanic-American colonies, it was never published.⁸³

In 1789, the Spanish Crown began to enact a series of *Reglamentos* on slave law. The first *reglamento* was the *Real Cédula* of May 31, 1789,⁸⁴ followed by two other *reglamentos* in 1826 and 1842.⁸⁵ Utilizing the *Real Cédula* of 1789, the Council of the Indies (*Consejo de las Indias*⁸⁶) formulated a cohesive policy on slavery and looked for institutions and doctrines of the Roman slave law.⁸⁷ In 1782, the Governors of Caracas, Havana, and Louisiana filed a report with the *Consejo de las Indias* noting that slaves received milder treatment in Hispanic-America than in French, English, or Dutch colonies.⁸⁸ The mildness of the Hispanic slave law resulted from a number of things:⁸⁹ (i) the Spanish Crown's protective concerns for Native Americans⁹⁰ that extended to Black slaves, (ii) the constant protection of Blacks by both judicial and

⁸³ MANUEL LUCENA SALMORAL, *LOS CÓDIGOS NEGROS DE LA AMÉRICA ESPAÑOLA* 6 (1996).

⁸⁴ Complete Spanish name: "Instrucción para la Educación, Trato y Ocupaciones de los Esclavos en todos los Dominios de Indias." See JUAN JOSEPH MATRAYA Y RICCI, *CATÁLOGO CRONOLÓGICO DE LAS PRAGMÁTICAS, CÉDULAS, DECRETOS, ORDENES Y RESOLUCIONES REALES GENERALES EMANADOS DESPUÉS DE LA RECOPIACIÓN DE LAS LEYES DE INDIAS* 406 (1978). Complete English name (Translation by the author of this article): "Instruction for the Education, Treatment and Occupations of the Slaves in all the Possessions of the Indies." See Transcription of the complete *Real Cédula* of 1789, available at http://afehc-historia-centroamericana.org/index.php?action=fi_aff&oldid=149&module=transcripciones.

⁸⁵ See SALMORAL, *supra* note 83, at 6.

⁸⁶ "Consejo de las Indias": Council of the Indies, charged with the executive, administrative, and judicial control of the Hispanic-American Colonies. See Mirow, *supra* note 8, at 45.

⁸⁷ Judith Kelleher Schafer, *Roman Roots of the Louisiana Law of Slavery: Emancipation in American Louisiana, 1803-1857*, 56 LA. L. REV. 409, 413 (1995)(1996).

⁸⁸ Hans W. Baade, *The Gens de Couleur of Louisiana: Comparative Slave Law in Microcosm*, 18 CARDOZO L. REV. 535, 543-44 (1996).

⁸⁹ See Baade, *supra* note 20, at 1486.

⁹⁰ Book VI, Title X of the Good Treatment Towards Native Americans (*Del Buen Tratamiento de los Indios*), Laws I- XXIII of la *Recopilación* mentions the special treatment that Native Americans should receive. See 2 RECOPIACIÓN DE LEYES DE LOS REYNOS DE LAS INDIAS 234 (1681).

ecclesiastical authorities, (iii) a Roman slave law background,⁹¹ (iv) the liberty of the masters to grant their slaves manumission, (v) the possibility for slaves to purchase their freedom, and (vi) the ready access to the Hispanic courts for slaves who complained of their masters' cruelty. Regarding this last point, the text of Book VII, Title V, Law VIII of the *Recopilación de Leyes de Indias* of 1680 stated:

That the Audiencias [Spanish official bodies that could decide on judicial matters] listen and provide justice to those that proclaim freedom. We order our Royal Audiencias that if any Black male or female, or anybody else being slave, would proclaim freedom, the Hearings should listen to them and provide justice, and assure that because of their claim they are not mistreated by their masters.⁹²

The *Real Cédula* of 1789 did not introduce great advances or changes to the slavery regime. Its main intention was to facilitate the observance of the existing laws that, although dispersed, were already in force.⁹³ The objective of the *Real Cédula* of 1789 was also to put an end to the development of new legislation on that matter and to systematize its arrangement. Its fourteen chapters intended to be nothing other than the last step in the humanitarian project of the Spanish slave law.⁹⁴ The *Real Cédula* of 1789, projected by Antonio Porlier, by an order of the Supreme Council of State (*Junta Suprema del Estado*), was the summary or compilation of all the rules, laws, and dispositions previously enacted and mentioned in all existing codes of that moment;⁹⁵ it concerned: i) the education of slaves,⁹⁶ ii) food and clothes for slaves,⁹⁷ iii) the occupations of slaves,⁹⁸ iv) the recreation of slaves,⁹⁹ v) rooms and infirmary for slaves,¹⁰⁰ vi) the

⁹¹ See Badde, *supra* note 88, at 544.

⁹² Translation to English by the author of this article. Book VII, Title V, Law VIII of la *Recopilación* mentioned the good access to justice for Blacks. Spanish text: "Que las Audiencias oigan, y provean justicia a los que proclamaren a libertad. Ordenamos A nuestras Reales Audiencias, que si algún Negro, o Negra, u otros cualesquiera, tenidos por esclavos, proclamaren a la libertad, los oigan, y hagan justicia, y provean, que por esto no sean maltratados de sus amos." See 2 RECOPIACIÓN DE LEYES DE LOS REYNOS DE LAS INDIAS 286 (1681).

⁹³ The main slave laws were included in the *Recopilación de Leyes de Indias de 1680* and in the *Códigos Negros*. See Levaggi, *supra* note 7, at 91.

⁹⁴ See MASINI, *supra* note 24, at 5.

⁹⁵ According to the idea provided by Levaggi, *supra* note 7, at 97.

⁹⁶ See Chapter I of the *Real Cédula* of 1789, available at http://afehc-historia-centroamericana.org/index.php?action=fi_aff&oldid=149&module=transcripciones

⁹⁷ *Id.* at ch. II.

⁹⁸ *Id.* at ch. III.

regulations regarding old and disabled slaves,¹⁰¹ vii) marriages between slaves,¹⁰² viii) obligations of slaves,¹⁰³ ix) legal punishments of slaves,¹⁰⁴ x) dispositions regarding the defects and excesses in the treatment by the masters and other individuals,¹⁰⁵ xi) the formation of the lists of slaves,¹⁰⁶ and xii) the formation of the box of fines.¹⁰⁷ Amongst other things, the *Real Cédula* of 1789 ordered a slave to work from sunrise to sunset with appropriate rest for his or her personal benefit,¹⁰⁸ prevented the work of slaves under the age of 17 and over 60,¹⁰⁹ recommended that slaves be provided with entertainment and religion for their salvation,¹¹⁰ tried to protect the families of slaves by encouraging marriages and avoiding promiscuity,¹¹¹ and compelled masters to assist the ill and unprotected.¹¹²

⁹⁹ *Id.* at ch. IV.

¹⁰⁰ *Id.* at ch. V.

¹⁰¹ *Id.* at ch. VI.

¹⁰² *Id.* at ch. VII.

¹⁰³ *Id.* at ch. VIII.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* at ch. X, XI, and XIII.

¹⁰⁶ *Id.* at ch. XII.

¹⁰⁷ *Id.* at ch. IV.

¹⁰⁸ *Id.* at ch. III.

¹⁰⁹ *Id.*

¹¹⁰ Chapter IV of the *Real Cédula* of 1789 stated (Spanish text):

En los días de fiesta de precepto, en que los Dueños no pueden obligar, ni permitir que trabajen los Esclavos, después que estos hayan oído Misa, y asistido á la explicación de la Doctrina Cristiana, procurarán los Amos, y en su defecto los Mayordomos, que los Esclavos de sus Haciendas, sin que se junten con los de las otras, y con separación de los dos sexos, se ocupen en diversiones simples y sencillas, que deberán presenciar los mismos Dueños, ó Mayordomos, evitando que se excedan en beber, y haciendo que esa diversiones se concluyan antes del toque de Oraciones.

English translation by the author of this article: “Masters, and if not possible, Butlers, will assure that during holidays of mandatory Mass attendance (in which Masters cannot force, nor allow slaves to work) and after their slaves have heard Mass, and attended to the explanation of the Christian Doctrine, the slaves (without being joined with those of other Masters and with separation of both sexes) must occupy their time in simple and easy entertainment activities. Masters or Butlers must be present during those activities and assure that slaves do not drink in excess and that the activities end before the time to pray begins.”

¹¹¹ Chapter VII of the *Real Cédula* of 1789 stated (Spanish text):

Los Dueños de Esclavos deberán evitar los tratos ilícitos de los dos sexos, fomentando los matrimonio, sin impedir el que se casen con los de otros Dueños; en cuyo caso, si las Haciendas estuviesen distantes, de modo que no puedan cumplir los consortes con el fin del matrimonio, seguirá la muger al marido, comprándola el Dueño de este á justa tasación de peritos nombrados por las partes, y por el tercero, que en caso de discordia

Copies of the *Real Cédula* of 1789 were distributed to the *Audiencias* of all the Hispanic-American colonies.¹¹³ The legal historian, Manuel Lucena Salmoral, mentions that, according to the General Archive of the Indies (*Archivo General de Indias*), the Spanish authorities distributed 12 copies in Buenos Aires for the Viceroyalty of Río de la Plata.¹¹⁴ Because of oppositions of the masters in Caracas, Cuba, Nuevo Reino de Granada, Quito, and Louisiana,¹¹⁵ the effects of the *Real Cédula* of 1789 were suspended, while the *Consejo de las Indias* recommended the contemplation of the spirit of the text developed on case by case basis.¹¹⁶

Slavery came to an end in the region of Río de la Plata during the Nineteenth Century. In 1813, a General Assembly proclaimed “freedom of the womb” (*libertad de vientre*)¹¹⁷ as a first

nombrará la Justicia; y si el Dueño del marido no se conviene en la compra, tendrá la misma acción el que lo fuere de la muger.

English translation by the author of this article: “The Owners of Slaves will have to avoid the illicit treatment of both sexes and encourage marriages, without preventing their slaves to marry those of another Master. If such is the case, if the lands of the Masters are so far apart one from the other that slaves cannot comply with their matrimonial duties, the wife will follow the husband (after the Master of the husband buys her at a fair price that will be established by experts named by the parties or a third party that will be named by the justice in the event of disputes). If the Owner of the husband does not agree to the purchase, the Owner of the wife will have the same action.”

¹¹² Chapter VI of the *Real Cédula* of 1789 stated (Spanish text):

Los Esclavos que por su mucha edad, ó por enfermedad, no se hallen en estado de trabajar, y lo mismo los niños y menores de qualquiera de los dos sexos, deberán ser alimentados por los dueños, sin que estos puedan concederles la libertad por descargase de ellos, á no se proveyéndoles del peculio suficiente á satisfacción de la Justicia, con audiencia del Procurador Síndico, para que puedan mantenerse sin necesidad de otro auxilio.

English translation by the author of this article: “The Slaves, who because of their advanced age or diseases, are not able to work, will have to be fed by their owners. The same applies to children and minors of any sex. In such cases, the Masters will not be able to grant them freedom (to get rid of them), unless the Master provides them with sufficient money for them to survive without any other assistance, and in that way satisfy the legal requirements, with a hearing before the Procurador Sindico [a designated attorney that represents the interests of the inhabitants of the region].”

¹¹³ See SALMORAL, *supra* note 83, at 105.

¹¹⁴ *Id.* at 106.

¹¹⁵ *Id.* at 108.

¹¹⁶ *Id.* at 122.

¹¹⁷ By means of the “freedom of the womb,” all babies born from slave mothers would be born free.

Mothers kept on being slaves, even when their children were born free. The freedom of newborn babies was established as from January 31, 1813. See RICARDO LEVENE, *MANUAL DE HISTORIA DEL DERECHO ARGENTINO* 292 (4th ed. 1969).

step to eventually abolish slavery.¹¹⁸ In the current region occupied by Argentina, slavery was abolished together with the enactment of the National Constitution¹¹⁹ of 1853. The text of Section 15 of the Argentine Constitution states:

In the Argentine Nation there are no slaves: the few who still exist shall become free as from the swearing of this Constitution; and a special law shall regulate whatever compensation this declaration may give rise to. Any contract for the purchase and sale of persons is a crime for which the parties shall be liable, as well as the notary or officer authorizing it. And slaves who by any means enter the nation shall be free by the mere fact of entering the territory of the Republic.¹²⁰

V. Labor Activities of Black Slaves in Río de la Plata

In the capital of the Viceroyalty of Río de la Plata, i.e., Buenos Aires, during the Eighteenth Century, some industries acquired importance. The construction of buildings – beginning with Churches – was modernized by adopting bricks and roof tiles, in turn changing the appearances of the cities. As a result, blacksmithing and carpentry became increasingly important not only because of increased construction, but also as producers of useful and decorative articles.¹²¹ Silversmithing, crafted sometimes by true artists, reached a notable importance that revealed an increasing luxury among the social classes.¹²² Tailoring, shoemaking, and manufacturing of glass, paper, boats and river crafts, amongst others, completed the make-up of the local industries.¹²³

In other regions of the Viceroyalty of Río de la Plata,¹²⁴ in cities such as Mendoza, San Juan, and Catamarca, and to a lesser extent in Salta, the grapevine was cultivated, and wines and brandies were produced for the consumption of all the Viceroyalty. Because of competition with

¹¹⁸ See Seoane, *supra* note 23, at 415.

¹¹⁹ The Argentine Constitution was enacted in 1853 and reformed in 1860. The most recent reform was in 1994.

¹²⁰ *National Constitution of the Argentine Republic*. Last updated: October 18, 2005. Georgetown University, 2007. http://pdba.georgetown.edu/Constitutions/Argentina/argen94_e.html#firstpartch1.

¹²¹ See Becu, *supra* note 68, at 169.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ The most important cities of the interior of the Viceroyalty of Río de la Plata were: San Fernando del Valle de Catamarca, Córdoba, San Salvador de Jujuy, Rosario, Salta, San Juan, Santiago del Estero, and San Miguel de Tucumán.

European producers, this industry declined when free commerce was established in 1778.¹²⁵ In Tucumán, rice was cultivated and sold to neighboring regions. Tucumán also had tanneries and additionally constructed the carts used for transport.¹²⁶ Cotton was the patrimony of Catamarca and Salta, whose inhabitants made fabrics. Sugar cane and the elaboration of its products began in Salta and Jujuy, but it never was able to surpass the competition of Brazil. Catamarca also provided other agricultural products like red peppers and beans. The *yerba mate*¹²⁷ came from the region of Paraguay and the decayed Jesuit Missions (*reducciones*). Tobacco was cultivated in Paraguay and Salta.¹²⁸ In the northwestern region (*Cuyo*) of the Viceroyalty and in Tucumán, “the rural tasks were much more diversified [than in the rest of the territory], and there even existed industries that used leather, grapes, cotton, wool and wood.”¹²⁹ “Cattle raising prospered in Córdoba and Salta . . . and domestic weaving provided an occupation for women of Santiago del Estero.”¹³⁰

a. Domestic Activities

Black slaves rendered greater benefits to masters by working permanently in cities. “Slaves, who remained generally in cities, were domestic servants and carried out diverse offices on behalf of their masters.”¹³¹ Chronicles and stories of travelers who visited Río de la Plata during the first half of the Nineteenth Century give a generalized opinion about the good treatment that masters gave to slaves. These chronicles and stories mention that slaves were dedicated to the domestic service or the performance of manual offices and lived in the houses of their masters.¹³²

¹²⁵ See Becu, *supra* note 68, at 190.

¹²⁶ *Id.* at 168.

¹²⁷ “Stimulating tea like beverage, popular in many South American countries, brewed from the dried leaves of an evergreen shrub or tree (*Ilex paraguariensis*) related to holly. It contains caffeine and tannin but is less astringent than tea. To brew maté, the dried leaves (*yerba*) are placed in dried hollow gourds (*matés* or *culhas*) decorated with silver and covered with boiling water and steeped. The tea is sucked from the gourd with a tube, often made of silver, with a strainer at one end to catch leaf particles. Though usually served plain, maté is sometimes flavored with milk, sugar, or lemon juice.” See *Mate*, in *ENCYCLOPÆDIA BRITANNICA* (2007), available at <http://www.britannica.com/eb/article-9371524>.

¹²⁸ Becu, *supra* note 68, at 190.

¹²⁹ *Id.* at 168.

¹³⁰ *Id.*

¹³¹ *Id.* at 147.

¹³² RICARDO ZORRAQUIN BECU, 2 HISTORIA DEL DERECHO ARGENTINO 213 (Editorial Perrot, 2d ed. 1996).

Amongst their domestic activities, slaves constructed brooms and cloth dryers. The former were constructed of maize from Guinea (being the not-very-well-polished ends of peach tree branches) and intestines and reed, while the latter were made of pipe wood arcs or of twigs of quince or peach trees.¹³³ These articles were sold or entrusted to other free men that were already dedicated to such affairs.¹³⁴

Slaves also acted as trusted servants, educators, and companions of White children, while helping White families raise and take care of their infants.¹³⁵ For example, a last will of that time affirms that a female Black slave was bound to serve and take care of the daughters of the master.¹³⁶ Slaves lived with their masters, occupying the third *patio*, far from the main rooms. There, *muleques* grew up in the company of the children of their masters¹³⁷ and were the companions of children and young people.¹³⁸ Their parents accompanied White children in their games, and took care of them until they were five or six years old.¹³⁹ Female Blacks joined their masters at Mass. The text of Chapter I of the *Real Cédula* of 1789 stated:

All Owners of Slaves, of any class and condition, will instruct them [the slaves] in the principles of the Catholic Religion and in the necessary truths so they can be baptized within the year of their residence in my Dominions. The Owners will explain Christian Doctrine during the holidays of mandatory Mass attendance, when slaves will not work for themselves or their owners, except in times of fruit harvesting, on which permission to work is generally granted. In these and other days in which it is mandatory to attend Mass, the Owners will have to pay for Priests, who will say Mass for the slaves, and explain Christian Doctrine to them, and administer the Holy Sacraments, thus in time of fulfillment of Church, like in others requested or needed; taking care that on all weekdays, after concluding

¹³³ JOSÉ A. WILDE, BUENOS AIRES DESDE 70 AÑOS ATRÁS 120 (Editorial Universitaria de Buenos Aires, 1960).

¹³⁴ Wilde, *supra* note 133, at 120.

¹³⁵ JUAN AGUSTÍN GARCIA, LA CIUDAD INDIANA. BUENOS AIRES DESDE 1600 HASTA MEDIADOS DEL SIGLO XVIII 63 (L.J. Rosso ed., Talleres Gráficos Argentinos 1953) (1933).

¹³⁶ See Ferreira, *supra* note 65, at 42.

¹³⁷ See Molas, *supra* note 36.

¹³⁸ RICARDO LEVENE, 1 LECCIONES DE HISTORIA ARGENTINA 360 (1934).

¹³⁹ See Molas, *supra* note 36.

work, they pray the Rosary in their [owners'] presence, or in presence of their Butlers, with the greatest composure and devotion.¹⁴⁰

Black slaves, both male and female, cooked, washed clothes, and undertook other similar works. The Black Francisco, for example, a slave, worked in the kitchen.¹⁴¹ In some cases, when the family did not have sufficient income, slaves sold pies and candies to cover the expenses of their masters.¹⁴²

b. Crafts

The craftsmen of Río de La Plata were mainly Blacks, although the management, ownership and teaching of crafts were in the hands of Europeans. The entry of Blacks in certain unions was prohibited (*e.g.*, shoemakers of Buenos Aires).¹⁴³ The text of Book VI, Title XIII, Law VIII of the *Recopilación de Leyes de Indias* of 1680 stated the prohibition of Native Americans to work in the workshops (*obrajes*):

That Native Americans do not serve in manufacturing or in sugar production facilities. In No Province, nor part of the Indies may Native Americans work in factories of cloth, wool, silk, or cotton, production facilities of sugar, nor any other similar facility. That will be so, even if held by Spaniards in company with

¹⁴⁰ Translation to English by the author of this article. Spanish Text:

Todo Poseedor de Esclavos, de cualquier clase y condición que sea, deberá instruirlos en los principios de la Religión Católica, y en las verdades necesarias para que puedan ser bautizados dentro del año de su residencia en mis Dominios, cuidando que se les explique la Doctrina Cristiana todos los días de fiesta de precepto, en que no se les obligará, ni permitirá trabajar para sí, ni para sus Dueños, excepto en los tiempos de recolección de frutos, en que se acostumbra conceder licencia para trabajar en los días festivos. En estos y en los demás en que obliga el precepto de oír Misa, deberán los Dueños de Haciendas costear Sacerdote, que en unos y en otros les diga Misa, y en los primeros les explique la Doctrina Cristiana, y administre los Santos Sacramentos, así en tiempo de cumplimiento de Iglesia, como en los demás que los pidan, ó necesiten; cuidando así mismo de que todos los días de la semana, después de concluido el trabajo, recen el Rosario á su presencia, o la de su Mayordomo, con la mayor compostura y devoción.

See supra note 96.

¹⁴¹ Miguel A. Rosal, *Diversos Aspectos Relacionados con la Esclavitud en el Río de la Plata a través del Estudio de Testamentos de Afroporteños, 1750-1810*, LVI-206 REVISTA DE INDIAS 219, 225 (1996).

¹⁴² *See* Molas, *supra* note 36.

¹⁴³ *See* Johnson, *supra* note 68, at 148.

Native Americans. Those facilities should be worked by Blacks or any other kind of slaves, and not with subjugated Native Americans.¹⁴⁴

Slaves and free Blacks practiced crafts, such as carpentry, shoemaking, tailoring, blacksmithing, and hairdressing, occupying 60% of those activities.¹⁴⁵ Proprietors of shops frequently left manual works in the hands of their slaves.¹⁴⁶ Many slaves worked outside their houses on behalf of their masters.¹⁴⁷ Families that owned slaves frequently made them work outside their houses as saddlers, silversmiths, pastry cooks, launderers and laborers. With what the slaves earned, the masters could keep up with their lifestyle.¹⁴⁸ For example, a chronicle of that time mentions that a slave named Cipriano exercised the craft of barber.¹⁴⁹

c. *Activities in the Countryside*

In line with physiocratic doctrine,¹⁵⁰ slavery was given the task of providing more working hands to the fields and promoting agriculture in the Hispanic-American colonies.¹⁵¹ The main cattle managing activities were in the hands of Native Americans and *Mestizos*¹⁵²

¹⁴⁴ Translation to English by the author of this article. Spanish text:

Que los Indios no sirvan en obrages, ni ingenios de azúcar. En Ninguna Provincia, ni parte de las Indias puedan trabajar los Indios en obrages de paños, lana, seda, o algodón, ingenios, y trapiches de azúcar, ni otra cosa semejante, aunque los tengan Españoles en compañía de Indios, beneficielos con Negros, o otro genero de siervos, y no con Indios forzados.

See 2 RECOPIACIÓN DE LEYES DE LOS REYNOS DE LAS INDIAS 250 (1681).

¹⁴⁵ See Molas, *supra* note 36.

¹⁴⁶ *Id.*

¹⁴⁷ ABELARDO LEVAGGI, 3 MANUAL DE HISTORIA DEL DERECHO ARGENTINO 280 (2001).

¹⁴⁸ See Gomes, *supra* note 3.

¹⁴⁹ See Ferreira, *supra* note 65, at 41.

¹⁵⁰ “A school of economists founded in 18th-century France and characterized chiefly by a belief that government policy should not interfere with the operation of natural economic laws and that land is the source of all wealth. It is generally regarded as the first scientific school of economics.” See *Physiocrat.*, in ENCYCLOPÆDIA BRITANNICA (2007), available at <http://www.britannica.com/eb/article-9059871>.

¹⁵¹ Jerry W. Cooney, *Neutral Vessels and Platine Slavers: Building a Viceregal Merchant Marine*, 18 J. LATIN AM. STUDIES. 25, 26 (May 1986).

¹⁵² Any person of mixed blood. In Central and South America it denotes a person of combined Native American and [W]hite extraction. See *Mestizo*, in ENCYCLOPÆDIA BRITANNICA (2007), available at <http://www.britannica.com/eb/article-9052254>.

because of their skills in horse riding.¹⁵³ However, given the scarcity of the local workforce, Black slaves also participated in cattle managing.¹⁵⁴

There were legal dispositions in the *Real Cédula* of 1789 that encouraged masters to send their slaves to perform agricultural work, thereby preventing their slaves from becoming too sedentary.¹⁵⁵ The *Real Cédula* of 1789 stated in the text of Chapter III that the first and main occupation of slaves must be agriculture and other field works, and not sedentary activities:

Occupation of Slaves. The first and main occupation of Slaves must be Agriculture and other field works, and not the activities of a sedentary life. To enable the Owners and the State to obtain the greatest utility from the work of the Slaves, and to assure that Slaves perform their activities as expected, the Justices of Cities and Villas, as in the preceding Chapter, will establish the daily activities of Slaves. Justices will contemplate the age, strength and robustness of Slaves. Slaves will work from sunrise to sunset but will have two hours during the day to dedicate to crafts or other occupations for their personal benefit and utility. Owners or Butlers will not force Slaves to work if over 60 years or younger than 17 years. Owners and Butlers will not force female Slaves to work in activities not suitable for their sex, mix them with male Slaves, or make them act as day laborers. If female Slaves perform domestic activities, they will be paid two pesos per year, in accordance with Chapter VIII of the *Real Cédula* of last February 28th, hereby cited.¹⁵⁶

¹⁵³ See LEVAGGI, *supra* note 147, at 280.

¹⁵⁴ Carlos Newland & Maria Jesús San Segundo, *Human Capital and Other Determinants of the Price Life Cycle of a Slave: Peru and La Plata in the Eighteenth Century*, 56 J. ECON. HIST. 694, 694-701 (Sept. 1996).

¹⁵⁵ See Molas, *supra* note 36.

¹⁵⁶ Translation to English by the author of this article. Spanish text:

Ocupación de los Esclavos La primera y principal ocupación de los Esclavos debe ser la Agricultura y demás labores del campo, y no los oficios de vida sedentaria; y así para que los Dueños y el Estado consigan la debida utilidad de sus trabajos, y aquellos los desempeñen como corresponde, las Justicias de las Ciudades y Villas, en la misma forma que en el capítulo antecedente, arreglarán las tareas del trabajo diario de los Esclavos proporcionadas á sus edades, fuerzas y robustez: de forma, que debiendo principiar y concluir el trabajo de sol á sol, les queden en este mismo tiempo dos horas en el día para que las empleen en manufacturas, ú ocupaciones, que cedan en su personal beneficio y

In 1677, the Buenos Aires Local Town Hall (*Cabildo*) requested that the Spanish king grant them some shiploads of slaves, for in Buenos Aires there were no other men who would cultivate the land.¹⁵⁷ In 1678, the Bishop of Buenos Aires affirmed the extreme poverty of the town of Buenos Aires due to the lack of Black slaves that could benefit and look after their properties.¹⁵⁸ That same year, the Buenos Aires *Cabildo* wrote to the Spanish king claiming that there was no service with which to encourage the neighbors to work and to grow crops on their properties, because of the low number of Native Americans and slaves they had.¹⁵⁹ In 1766, the Buenos Aires *Cabildo* alerted that the Black slaves were the only agriculturists.¹⁶⁰ During the Eighteenth Century, the big ranches (*estancias*) of Magdalena and Areco owned altogether more than 120 Black slaves.¹⁶¹ In such *estancias* the Black slaves were assigned to the maintenance of the facilities, and to the care of sheep, milk cows and horses. They were also overseers of the posts and laborers or farmers.¹⁶²

d. Service in the Mines

Few mining activities existed in Río de la Plata, in comparison with Alto Peru, including those of Carolina in San Luis and of Uspallata in Mendoza.¹⁶³ These activities, although relatively small in the region, the mining activities were led by Native Americans (being slaves or free employees) and Black slaves. Initially, the activities in mines were entrusted to Native

utilidad; sin que puedan los Dueños, ó Mayordomos obligar á trabajar por tareas á los mayores de sesenta años, ni menores de diez y siete, como tampoco á las Esclavas, ni emplear á estas en trabajos no conformes con su sexo, ó en los que tengan que mezclarse con los varones, ni destinar á aquellas á jornaleras; y por los que apliquen al servicio doméstico, contribuirán con los dos pesos anuales, prevenidos en el capítulo octavo de la Real Cédula de veinte y ocho de Febrero último, que queda citada.

See *supra* note 96.

¹⁵⁷ Emilio Coni, *La Actividad en el Buenos Aires Indiano y Colonial*, 9-18 REVISTA ARGENTINA DE CIENCIAS POLÍTICAS 139, 142 (1918).

¹⁵⁸ See Johnson, *supra* note 68, at 149.

¹⁵⁹ *Id.* at 146.

¹⁶⁰ See Coni, *supra* note 157, at 142.

¹⁶¹ See Molas, *supra* note 36.

¹⁶² Oscar Trujillo, *La Esclavitud en un Rincón de la Campaña: Los Esclavos del Presbítero Cayetano Escola*, 9 BOLETÍN DIGITAL DE LA BIBLIOTECA DEL CONGRESO DE LA NACIÓN (2002), available at <http://www.bcnbib.gov.ar/bibliopress/bibliopress9a.htm>.

¹⁶³ *Historia de San Luis* (2008), available at <http://www.sanluis.gov.ar/notas.asp?idCanal=4106&id=895&parte=5>

Americans, but because it was forbidden to enslave Native Americans,¹⁶⁴ the alternative resources were Black individuals. The text of Book VII, Title V, Law IV of the *Recopilación de Leyes de Indias* of 1680 ordered that Blacks should work in the mines:

That Blacks, and free Mulatos [i.e., people of Black and White extraction] work in the mines, and are condemned to work in mines due to the crimes they commit. That the Viceroy and Ministers in charge of the Province, order Blacks, free Mulatos and vagrants, who are unemployed, to work in mines. If, because they have committed crimes, people are condemned to perform any service, they are to work in the mines. The sums (other than for food and dress) payable to condemned Miners for their services will be paid into our Royal Treasury in the most convenient way.¹⁶⁵

For example, in 1767, there was a special authorization in Buenos Aires to buy 80 slaves to be sent to the mines in Uspallata.¹⁶⁶ Later, in 1774, there would be a need to replace 18 slaves that had been sent to the mines in Peru.¹⁶⁷

e. Service in the Churches

The Roman Catholic Church enlisted Black slaves to perform domestic or agricultural activities. The text of Book I, Title XIV, Law LXXXI of the *Recopilación de Leyes de Indias* of 1680 stated the prohibition of employing Native Americans:

¹⁶⁴ Book VI, Title XV of the Service in the Mines (*De el Servicio en Minas*), Laws I-XXI of the *Recopilación* detail the treatment Native Americans should receive if working in mines, and the prohibition of being subject to slavery. See 2 RECOPIACIÓN DE LEYES DE LOS REYNOS DE LAS INDIAS 254 (1681).

¹⁶⁵ Translation to English by the author of this article. Spanish text:

Que los Negros, y Mulatos libres trabajen en las minas, y sean condenados a ellas por delitos, que cometieren. Los Virreyes, y Ministros a cuyo cargo estuviere el gobierno de la Provincia, ordenen, que los Negros, y Mulatos libres, y ociosos, que no tuvieren oficios, se ocupen, y trabajen en la labor de las minas: y los condenados por delitos en algún servicio, lo sean a este, y fuera de la comida, y vestido, lo que dieren los Mineros por el servicio, y trabajo de los que así fueren condenados, se cobre, y aplique a nuestra Real hacienda en la forma, que pareciere más conveniente.

See 2 RECOPIACIÓN DE LEYES DE LOS REYNOS DE LAS INDIAS 285 (1681).

¹⁶⁶ JOSÉ LUIS MASINI, LA ESCLAVITUD NEGRA EN MENDOZA -ÉPOCA INDEPENDIENTE 37 (1962).

¹⁶⁷ *Id.*

That clergymen do not make use of Native Americans, and if they use them in very necessary cases, they should pay them. That Viceroy, Audiencias and Governors order clergymen not to use Native Americans. An exception will exist in very necessary cases and for very necessary things. In such instances, clergymen will pay Native Americans what they deserve, and what the Government established for their daily work.¹⁶⁸

In the Iberian Peninsula, the *Siete Partidas* had provided that the sons of priests, who were in sacred order, should be slaves of the church. The text of Book IV, Title XXI, Law III of the *Siete Partidas* stated:

The Sons of Priests, Who are in Sacred Orders, Should be Slaves of the Church. There are certain contingencies and reasons on account of which persons who are born of a father and mother who are free, become slaves, and one of these is where a priest who has received Holy Orders marries a free woman, in the same manner as laymen should marry according to law; for children born to women of this kind will be slaves of the church in which the priest who contracted such a marriage has a benefice. Slaves of this kind should not, however, be sold like other slaves, but are always bound to serve that church. Children of this kind labor under still another impediment on account of the fault which their father committed in marrying in this way, for they cannot inherit the property of their father, although they have a right to inherit that of their mother.¹⁶⁹

¹⁶⁸ Translation to English by the author of this article. Spanish text: "*Que los religiosos no se sirvan de los Indios, y en casos muy necesarios, sea pagándoles. Los Virreyes, Audiencias y Gobernadores den orden, que los Religiosos no se sirvan de Indios, si no fuere en casos y cosas muy necesarias, y entonces pagándoles lo que merecieren, y el Gobierno hubiere tasado por sus jornales.*" See 1 RECOMPILACIÓN DE LEYES DE LOS REYNOS DE LAS INDIAS 72 (1681).

¹⁶⁹ For English text, See 4 LAS SIETE PARTIDAS 978 (Robert I. Burns ed., Samuel Parsons Scott trans., S.J. 2001). Spanish text:

De cómo los hijos de los clérigos que han ordenes sagradas deben ser siervos de la iglesia. Casos y razones hay para que algunos de los que nacen de padre y madre libres, se tornen siervos. Uno de esos es cuando algún clérigo que fuese ordenado de órdenes sagradas se casase con mujer libre, y a semejanza de los legos deben casarse de derecho. Los hijos que vinieren de tales mujeres, deben ser siervos de la iglesia, en que era beneficiado el clérigo que así se casase. Pero estos tales, no los deben vender, como a otros siervos, mas siempre deben que servir aquella iglesia. Y aún les cabe a los hijos otro

In the Hispanic-American colonies some legal dispositions were not applied to Blacks who rendered services to the Church, religious communities, or ecclesiastical authorities.¹⁷⁰ Before their expulsion, the Jesuits used Black slaves at their *reducciones* and *estancias*. In Córdoba, by 1686, the Jesuits had 300 slaves, 11,000 sheep, 5,000 horses, 3,000 cattle, and 1,000 mules. In 1767, the personnel of the *estancia* of Alta Gracia reached 140 Black men and 170 Black women, an amount that seemed excessive to oversee fewer than 15,000 heads of cattle.¹⁷¹ At that same time, for example, Father Escola acquired for the operation of his estate 40 Black slaves and all the necessary tools for farming activities.¹⁷²

f. Artistic Activities

Blacks, both free and slaves, had a strong artistic predisposition in Río de la Plata¹⁷³ and frequently performed to great acclaim in theaters and circuses.¹⁷⁴ Almost all piano teachers were Black.¹⁷⁵ The popular Remigio Navarro¹⁷⁶ and Roque Rivero¹⁷⁷ were among those teachers.

embargo, del yerro que el padre hizo casándose de esa manera, y no deben heredar los bienes del padre, como quiere que si puedan heredar los de la madre.

See 4 LAS SIETE PARTIDAS DEL SABIO REY DON ALFONSO EL NONO, NUEVAMENTE GLOSADAS POR EL LICENCIADO GREGORIO LÓPEZ DEL CONSEJO REAL DE INDIAS DE SU Magestad 55 (1555).

¹⁷⁰ See Johnson, *supra* note 68, at 26.

¹⁷¹ See Molas, *supra* note 36.

¹⁷² See Trujillo, *supra* note 162.

¹⁷³ See Gomes, *supra* note 3.

¹⁷⁴ See WILDE, *supra* note 133, at 122.

¹⁷⁵ *Id.* at 123.

¹⁷⁶ Remigio Navarro was born in Buenos Aires in 1795 and studied with the *maestro* Juan Antonio Picassarri. Navarro wrote music for plays in the 1820s, holding the orchestra direction of the Argentine Theater. His fame extended as far as Montevideo (Uruguay). In Buenos Aires, he was the first to play Strauss in public. Amongst his works are a famous minuet published by Bacle in 1829, Variations for Piano of 1831, and numerous folksongs that were published by Antonio Wilde. See Juan Carlos Coria, *Aportes de los Negros a la Música*, in PASADO Y PRESENTE DE LOS NEGROS EN BUENOS AIRES (Oct. 1997), available at <http://www.educar-argentina.com.ar/CORIA/coria14.htm>.

¹⁷⁷ See WILDE, *supra* note 133, at 123. Roque Rivero was pianist and composer. He had a very intense social life until 1837, when, due to his political ideas, he moved to Montevideo (Uruguay). There, he composed plays with the help of his son Demetrio, who was a journalist for the newspaper *El Talisman*. In 1843, he moved with his family to Río de Janeiro (Brazil), where he spent the rest of his life. Among his works are a collection of songs dedicated to May 25th (the Argentine revolution's anniversary) General Lavalle, and those captured by Native Americans. His music composition *Libertad* was published in Paris in 1839 by Adolph D'Astrel. See *supra* note 176.

Chronicles of the period remark that Blacks were known for having an excellent musical ear and could be heard at all times whistling in the streets to whatever song the bands played at that time, as well as operatic pieces.¹⁷⁸ There were also great Black composers such as Rosendo Mendizabal,¹⁷⁹ author of the tango named “El Entrerriano.”¹⁸⁰ Another notable exponent of the artistic quality of Black slaves was Horacio Mendizabal,¹⁸¹ poet of the romantic period and proponent of the rights of his community.¹⁸²

g. Military Enrollment

Blacks had to render important services for the army. The enlistment was accomplished through a draft (*rescate*),¹⁸³ by which the owners gave their slaves to the army. Only those slaves who were bought to be enrolled in the army could achieve their freedom although it was not guaranteed; the rest remained in their servile condition.¹⁸⁴

The practice of the *rescate* was initiated with a decree of the Constituent Assembly¹⁸⁵ of June 12, 1813. That decree authorized the enrollment of Black slaves for a battalion after they were “rescued” from their owners. Several other drafts followed the first *rescate*. When trying to form military units, both the nation and the provinces usually turned to the *rescate*. The *rescate* was initially used in the region during the War of Independence.¹⁸⁶ Not all Black men

¹⁷⁸ See WILDE, *supra* note 133, at 122.

¹⁷⁹ For a complete English biography of Rosendo Mendizábal, see Juan Silbido, *Rosendo Mendizábal*, in TODO TANGO. THE ARTISTS. MUSICIANS (1964), available at <http://www.todotango.com/english/Creadores/rmendizabal.asp>.

¹⁸⁰ See Gomes, *supra* note 3. Music available at: *El Entrerriano*, TODO TANGO. THE LIBRARY. SCORES (2007), at <http://www.todotango.com/english/biblioteca/partituras/partitura.asp?id=559#>.

¹⁸¹ Horacio Mendizábal was the father of Rosendo. See SILBADO, *supra* note 179.

¹⁸² See Gomes, *supra* note 3.

¹⁸³ The *rescate* was regulated as follows: (i) domestic service slaves: a) owner of three, gave one; b) owner of six, gave two; c) and so on in the same proportion; (ii) services of cabins, factories or bakeries slaves: a) owner of five, gave one; b) and so on in the same proportion; and (iii) farming slaves: a) owner of eight, gave one; b) and so on in the same proportion. Rafael Castellano Saenz Cavia, *La Abolición de la Esclavitud en las Provincias del Río de la Plata (1810-1860)*, 9 REVISTA DE HISTORIA DEL DERECHO 55, 92 (1981).

¹⁸⁴ *Id.*

¹⁸⁵ Actually, the Assembly was not “constituent,” for it never framed a constitution. The Assembly appointed a committee which would frame a draft of a constitution for Argentina. RICARDO LEVENE, A HISTORY OF ARGENTINA 280-81 (James A. Robertson ed., The University of North Carolina Press 1937).

¹⁸⁶ The struggle for independence started for Argentina on May 25, 1810, when the viceroy was deposed by a governing committee. Later, Argentina proclaimed its independence from Spain on July 9, 1816. Independence was not a reality until General José de San Martín led his troops over the Andes and defeated the Spaniards in Chile (1817-1818) and in Peru laid the basis for the defeat of the remaining

that survived the War of Independence were granted the freedom they had been promised for fulfilling four years of military service.¹⁸⁷ Many that participated in the War of Independence were later incorporated into units of the army in the War with Brazil,¹⁸⁸ and the civil conflicts between Unitarians and Federalists¹⁸⁹ absorbed the survivors.¹⁹⁰ Juan Manuel de Rosas, the Brigadier General and Governor of Buenos Aires, enrolled them as part of his army.¹⁹¹ Years later, in the Battles of Cepeda,¹⁹² Caseros,¹⁹³ and Pavón,¹⁹⁴ Black men faced each other on both sides of the conflict.¹⁹⁵ So far as is known, the War of the Triple Alliance against Paraguay¹⁹⁶ concluded the suffering of Black men in the army.¹⁹⁷

Spaniards in South America (1824). See THOMAS F. MCGANN, ARGENTINA THE DIVIDED LAND 25 (G. Etzel Percy & George W. Hoffman eds., D. Van Nostrand Company, Inc. 1966).

¹⁸⁷ See Gomes, *supra* note 3.

¹⁸⁸ On December 1, 1825 the emperor of Brazil declared War on the United Provinces of Río de la Plata (the current Argentina and Uruguay) over the possession of the territory of today's Uruguay. Even when Brazil was forced to retreat in 1828, both Brazil and Argentina suffered from the war, for Uruguay was able to achieve its independence. See LEVENE, *supra* note 185, at 379-384.

¹⁸⁹ In 1828, the Civil War started in Argentina. The interests were divided between Federalists (representing Buenos Aires) and Unitarians (representing the rest of the Provinces). After several battles, in 1831 the Federalist movement succeeded and a Federal Pact was agreed upon. See LEVENE, *supra* note 185, at 393-395.

¹⁹⁰ See Gomes, *supra* note 3.

¹⁹¹ On December 8, 1829 Juan Manuel de Rosas entered upon his first of several terms as Governor and Captain General of Buenos Aires. In addition to his terms as Governor, Rosas was a *caudillo* or chieftain and exercised tremendous power until defeat in the battle of Caseros. Rosas was a strong personality, a member of the Federalist movement, and was known as the *Restorer of the Laws*. See LEVENE, *supra* note 185, at 391-422.

¹⁹² The battle took place on February 1, 1820 between the army of Buenos Aires and the army of the rest of the Provinces. The army of Buenos Aires was vanquished and the last bond that existed between the Provinces and Buenos Aires was broken. See LEVENE, *supra* note 185, at 338.

¹⁹³ The battle took place on February 3, 1852. The army of Buenos Aires was led by General Rosas and the army of the rest of the Provinces by General Urquiza. After the defeat at Caseros, Rosas submitted his resignation and embarked immediately for England. See LEVENE, *supra* note 185, at 439-440.

¹⁹⁴ The battle took place on September 17, 1861. The army of Buenos Aires was led by General Mitre, while the army of the rest of the Provinces was led by General Urquiza. Even though Mitre lost more men, Urquiza was demoralized and acted as if defeated. The battle of Pavón symbolized the union of Buenos Aires with the rest of the Provinces. See LEVENE, *supra* note 185, at 463.

¹⁹⁵ See Gomes, *supra* note 3.

¹⁹⁶ The war started with a protest of the Paraguayan government on August 30, 1864 against the acts of Brazil. During the War, Brazil made allies with Argentina and Uruguay. On March 1, 1870, the last Paraguayan camp in Cerro Corá was defeated. As a result of the War against Paraguay, the Paraguayan population suffered a significant decrease and the economy of Paraguay was negatively affected. See LEVENE, *supra* note 185, at 468-475.

¹⁹⁷ See Gomes, *supra* note 3.

VI. The Disappearance of Blacks from Río de la Plata

“[T]he distribution of [Native Americans], [Blacks] and [W]hites was far from regular, and the rate and relative proportions of the elements in the process of racial fusion have varied strongly from one region of Latin America to another.”¹⁹⁸ Nowadays, Black people are very difficult to find in Río de la Plata.¹⁹⁹ Few trace their roots back to the ones that entered the territory as slaves during the Fifteenth to Nineteenth Centuries. It is not possible to make a growth projection for Blacks in the region using the statistics mentioned in previous sections of this article.

Three facts explain the disappearance of Blacks from the region. Slaves that formed the units of the armies were used as “cannon fodder” during combats and reduced in great number. Additionally, in 1871 there occurred an epidemic of “yellow fever.”²⁰⁰ This took the lives of several settlers, especially those living in the tenement houses on the outskirts of Buenos Aires. Further, the disease claimed the lives of many Blacks living in those areas.²⁰¹ Black slaves not only underwent these two strong attacks on their numbers, but many married Blacks tended not to have children. This can be explained by the fact that Black couples did not want to bring children into the world who would suffer slavery as they had or who could be looked upon as slaves even though they were free. For that reason Blacks formed unions with members of other races. This last fact produced a significant mixture of blood and races.²⁰²

VII. Summary and Final Comment

In this article I tracked the backgrounds of slavery inside the Iberian Peninsula and described the entry of slaves in the Hispanic-American colonies. Further, with the assistance of illustrative statistics, I helped the reader understand the number of Black slaves that entered the

¹⁹⁸ James Ferguson King, *Negro History in Continental Spanish America*, 29 J. NEGRO HIST. 7, 7 (Jan. 1944).

¹⁹⁹ In the current territory of Uruguay, it is possible to find more Black people than in Argentina. The factors developed in this section seem to explain such reality.

²⁰⁰ “An acute infectious disease, one of the great epidemic diseases of the tropical world, though it sometimes has occurred in temperate zones as well. The disease, caused by a flavivirus, infects humans, all species of monkeys, and certain other small mammals. The virus is transmitted from animals to humans and among humans by several species of mosquitoes.” *See Yellow Fever*, in *ENCYCLOPÆDIA BRITANNICA* (2007), available at <http://www.britannica.com/eb/article-9077901>.

²⁰¹ Catalina Pistone, *La Esclavatura Negra en Santa Fe*, 45 INVESTIGACIONES Y ENSAYOS 475, 510 (1995).

²⁰² *See* Rosal, *supra* note 1411, at 235.

region. In addition, I provided a description of the slave laws that were applicable in the Hispanic-American colonies, together with an extensive analysis of the *Real Cédula* of 1789. My main contribution was to illustrate the diverse activities that Black slaves undertook in the region of Río de la Plata. Finally, I provided three possible reasons why Blacks practically disappeared from the region.

During the Eighteenth Century, while traveling from Lima to Buenos Aires, the lawyer Eusebio de Urra assured that in no other region had slaves worked less or been treated more humanely than in Río de la Plata.²⁰³ He also said that the slaves of Buenos Aires lived happily, they were maintained with abundance, and many were dressed with clothes that free people would have liked to wear.²⁰⁴ During that same century, Felix de Azara reflected in his chronicles that the situation of slaves in Río de la Plata was far from being cruel.²⁰⁵ These two last documents successfully summarize what has been said throughout this article, that is, that slaves in Río de la Plata were treated mildly. If compared with the English, French, or Dutch colonies,²⁰⁶ the condition of Black slaves in Río de la Plata was generally benign; they almost became truly free people, with a diminishing reminiscence of the concept of *res* or object.²⁰⁷

²⁰³ JOSÉ M. MARILUZ URQUIJO, EL VIRREINATO DEL RÍO DE LA PLATA EN LA ÉPOCA DEL MARQUÉS DE AVILÉS 595 (1988).

²⁰⁴ *Id.*

²⁰⁵ See Levaggi, *supra* note 7, at 91.

²⁰⁶ For examples of English, French and Dutch slave treatment, see the bibliography mentioned in *supra* note 6.

²⁰⁷ See Levaggi, *supra* note 7, at 159.